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2 was more evidence or less evidence

3 available to him in 1990 when compared to

4 1983?

**5**                   **A**                   **NO.**

6 Q Did you, were you in the

7 courtroom for any of the trials --

8 withdrawn.

9 Were you in the courtroom for

10 any part of the 1990 re-trial?

**11**                   **A**                   **No.**

12 Q Did there come a time when there

13 were discussions regarding a plea bargain

14 before the verdict in the 1990 trial?

15 A Yes.

16 Q Were you involved in those

## 17 discussions?

18 A Yes, I was.

19 Q Okay.

## 20 How did that discussion begin

21 from your perspective?

22 A Well, my recollection is that

23 the jury had been out for about 3 days with

24 no verdict, and that I was standing with

25 Bill O'Neill just talking because that's

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2 about all you do when you're waiting for a

3 verdict, and I believe I was approached by

4 Mickey Stiman who was the defense attorney

5 representing Bozella at the time, and he

6 asked us in light of the apparent

7 reluctance of the jury to reach a verdict

8 whether we would consider anything other

9 than the top charge.

10 I said to him, well, we'll talk  
11 about it. Bill O'Neill and I spoke. I'm  
12 not sure who else was there. Ed Whitesell  
13 may have been there, I'm not sure. There  
14 may have been somebody else.

15                   But in any event, the  
16 conversation wasn't a very long one. Bill  
17 O'Neill at the end of the conversation was  
18 in agreement if the offender admitted to a  
19 charge of manslaughter would receive from  
20 the Court a sentence that would give him a  
21 few more years in prison, that would be  
22 acceptable to him. And I agreed under the  
23 circumstances.

24 So that offer was conveyed.

25 Mr. Stiman apparently went to speak to

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2 Mr. Bozella and came back and said he will  
3 not take that plea. Would you be willing  
4 to consider a plea that would result in a  
5 time served.

6 And it didn't take Bill O'Neill  
7 very long to evaluate that request. As a  
8 matter of fact, he was very emphatic and  
9 told us that he would rather see the  
10 offender acquitted by a jury than allow him  
11 to walk from the courtroom a free man after  
12 pleading guilty given the gravity and the  
13 seriousness of the offense with which he  
14 was charged. And I did not disagree with  
15 his position on that.

16 And that's all I remember about  
17 the conversation other than the jury came  
18 back shortly thereafter.

19 Q Who presented the offer to  
20 Mr. Stiman?

21 A I don't recall that. It could  
22 have been me, because I believe I was  
23 standing with Bill O'Neill at the time.

24 Q Do you recall where you were  
25 when you presented the offer to him?

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2           A       My recollection is in the  
3       hallway. Because our office was literally  
4       just feet away from the courtroom.

5 Q And Mr. O'Neill was with you?

6 A I believe. I can't say for  
7 certain.

8 Q You're not sure?

9 A No.

10 Oka

11                           Where was the meeting that you  
12                           had with Mr. O'Neill before you presented  
13                           the offer to Mr. Stiman?

14 A I believe we just, we took a  
15 walk into the office, into our office  
16 complex, which was really within a short  
17 number of feet away and just stood around.

18 Q Where were you standing?

19 A Where was I standing in that  
20 conversation?

21 o Yeah.

22 A Oh, I don't know.

23 Q And you don't recall whether

24 there was a third or fourth or fifth person  
25 there?

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**2**                   **A**                   **NO.**

3 Q You just recall it was you and

4 Mr. O'Neill and maybe other people?

5 A Right.

6 Q Okay.

7                   Did Mr. O'Neill provide you with  
8       any kind of summary or information about  
9       what evidence was presented during the 1990  
10      trial?

11 A In a plea discussion?

12 Q Yes.

**13**              **A**              **No.**

14 Q When you presented the  
15 information, the offer to Mr. Stimana, you  
16 said you think he went back to see his  
17 client?

18                   A         I believe so, because the offer  
19                   was rejected. So unless he had spoken to  
20                   him previously about a potential offer and  
21                   knew what his answer would be, I assume  
22                   that he went back to talk to him.

23 Q And then he conveyed, he  
24 responded to you at some point, correct?

25 A Mr. Stiman?

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2                    On                    Yes.

3 A Yes.

4 Q You had conversation with him?

5 A Sure.

6 Q Where did that take place?

7 A I don't recall. Somewhere in

## 8 the complex.

9 Q And who was present during that  
10 conversation?

11 A I have no recollection of that.

12 Q And what did he say to you?

13 A We reject the plea, the plea  
14 offer.

15 Q Did he make a counteroffer?

16 A He wanted us to consider a plea  
17 that would result in his client literally  
18 receiving a time served sentence.

19 Q And I think you said you spoke  
20 to Bill O'Neill about that counteroffer?

21 A Yes, yes.

22 Q Where did that conversation take  
23 place?

24 A I believe it was, I believe it

25 was right in the hallway.

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2 Q And were all of these  
3 conversations so far on the same day, or  
4 were they --

5                  A        No, it was all within a matter  
6        of minutes of each other.

7 Q Okay.

8 So somewhere in the hall, then  
9 you went back to the DA's office, and then  
10 you came back to the hallway?

11               A       I believe. That's my best  
12       recollection.

13 Q Okay.

14 But you're not sure?

15 A No.

16 Q Is it your testimony that you  
17 rejected the counteroffer?

18 A We rejected his request that the  
19 defendant be allowed to plead guilty to a  
20 crime which would result in him basically  
21 getting time served.

22 Q And did you make that, did you  
23 convey that to Mr. Stimian?

## 24 A That rejection?

**25**                   **Q**                   **Yes.**

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**2 A Yes.**

3 Q Was anyone with you when you  
4 conveyed that to him?

5 A I believe Mr. O'Neill was there,  
6 but I can't be certain.

7 Q And where did you convey that to  
8 Mr. Stimman?

9 A I believe it was in the hallway.

10 Q Did you ever offer a deal to  
11 Mr. Bozella or Mr. Stimana that would result  
12 in Mr. Bozella's immediate release from  
13 prison?

14 A No.

15 Q Are you sure?

16 A I'm quite clear about that

17 because I know what Mr. O'Neill's position  
18 was. He was very vocal about how he felt  
19 with regard to the possibility of the  
20 defendant pleading guilty and literally  
21 getting a time served sentence.

22 Q Mr. O'Neill reported to you at  
23 that time, correct?

**24**                  A                  Yes, he did.

25 Q You certainly have the authority

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2 to offer a deal that he wouldn't approve  
3 of, correct?

4 A Oh, of course.

5 Q And you have no recollection of  
6 offering a deal for time served?

7 MR. BURKE: Objection.

8 MR. BURKE: Objection.

9 A I never made that offer.

10 Q Do you find it odd -- withdrawn.

11 Did you ever make a

12 Serrano-Alford offer to Mr. Bozella?

13 A No.

14 Q Did Mr. Stimman?

15 A No.

16 Q Did you ever see Mr. Stimani in  
17 the District Attorney's Office in  
18 connection with the Crapser case?

19 A During the pendency of that  
20 case, did I ever see him in the office?

21 Q Yes, in connection with the  
22 Crapser case.

23                  A            I might have.

24 Q You have no recollection?

**25**                   **A**                   **No.**